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COMMISSION ON HUMAN RIGHTS

Fifty-seventh session

SUMMARY RECORD OF THE 78th MEETING

Held at the Palais des Nations, Geneva,
on Wednesday, 25 April 2001, at 3 p.m.

Chairperson: Mr. DESPOUY (Argentina)

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The meeting was called to order at 3.20 p.m.

PROMOTION AND PROTECTION OF HUMAN RIGHTS:

(a) STATUS OF THE INTERNATIONAL COVENANTS ON HUMAN RIGHTS;

(b) HUMAN RIGHTS DEFENDERS;

(c) INFORMATION AND EDUCATION;

(d) SCIENCE AND ENVIRONMENT;

(agenda item 17) (continued) (E/CN.4/2001/L.77/Rev.1, L.78, L.87, L.88, L.93, L.95, L.96 and L.103; E/CN.4/2001/2-E/CN.4/Sub.2/2000/46, chapter I, draft decisions 11, 12 and 14)

Draft decision on the enhancement of international cooperation in the field of human rights (E/CN.4/2001/L.78)

1. Mr. MONTWEDI (South Africa), introducing the draft decision, said that the corresponding resolution in previous years had been adopted by consensus.

2. The draft decision was adopted.

Draft resolution on the question of the death penalty (E/CN.4/2001/L.93)

3. Mr. MOLANDER (Observer for Sweden), introducing the draft resolution on behalf of the European Union and the other sponsors, said that the universal abolition of the death penalty was one of the main objectives of the Union's human rights policy since the death penalty contravened the right to life.

4. Mrs. IZE-CHARRIN (Secretary of the Commission) said the representative of the Russian Federation and the observers for Cambodia and Monaco had become sponsors of the draft resolution.

5. Mr. SABHARWAL (India), speaking in explanation of vote before the voting, said that the international community had not yet a reached a consensus on the issue of capital punishment, as had been brought out clearly by the consideration of a draft resolution on the subject in the General Assembly. The cause of abolitionism, and its recognition as a human rights issue, could be achieved only gradually.

6. His delegation agreed with the need to resort to capital punishment only for the most serious crimes and through the due process of law, in strict accordance with international human rights standards. In India, the death penalty was imposed only in the rarest of cases, where the crime committed was particularly heinous. It was therefore the exception rather than the rule. Death sentences had to be confirmed by a superior court and the accused had the right to appeal to the High Court or the Supreme Court and to file a mercy petition before the Governor of the

state concerned or the President of India. The death penalty was suspended in the case of pregnant women. Juvenile offenders could not be sentenced to death under any circumstances.

7. However, the draft resolution asked States not to execute any person as long as any related legal procedure at the international level was pending. That was unacceptable, for the only procedures that applied were those contained in national law. States were also asked to establish a moratorium on executions and to refuse extradition to countries where the laws provided for the death penalty. Those elements of the draft resolution were also totally unacceptable. He therefore requested a vote on the retention of paragraphs 4 (f), 5 (b) and 6 of the draft resolution. His delegation would vote against those paragraphs.

8. At the request of the representative of India, a vote was taken by roll-call on the retention of paragraphs 4 (f), 5 (b) and 6.

9. The Republic of Korea, having been drawn by lot by the Chairperson, was called upon to vote first.

In favour: Argentina, Belgium, Brazil, Canada, Colombia, Costa Rica, Czech Republic, Democratic Republic of the Congo, Ecuador, France, Germany, Italy, Latvia, Mauritius, Mexico, Norway, Peru, Poland, Portugal, Romania, Russian Federation, South Africa, Spain, United Kingdom of Great Britain and Northern Ireland, Uruguay, Venezuela.

Against: Algeria, China, Cuba, India, Indonesia, Japan, Libyan Arab Jamahiriya, Malaysia, Nigeria, Pakistan, Qatar, Republic of Korea, Saudi Arabia, Swaziland, Syrian Arab Republic, Thailand, United States of America, Viet Nam.

Abstaining: Burundi, Cameroon, Guatemala, Kenya, Madagascar, Senegal, Zambia.

10. It was decided by 26 votes to 18, with 7 abstentions, that paragraphs 4 (f), 5 (b) and 6 should be retained.

11. Mr. MOOSE (United States), speaking in explanation of vote before the voting, said that his delegation could not support the draft resolution. Capital punishment was not prohibited under international law in cases involving the most serious crimes and when due process was observed. Public debate on the subject continued in his country, but there was universal agreement on the latter principle. It was a matter for each nation to determine for itself.

12. Ms. AL-HAJJAJI (Libyan Arab Jamahiriya) said that her delegation would vote against the draft resolution: the principle of the sovereignty and political independence of States was being eroded on the pretext of humanitarian intervention. Non-interference with the legislation of national authorities was a basic principle; and she found it hard to believe that, if required to do so by a United Nations resolution, countries that had abolished the death penalty, for

example, would restore it. Moreover, the right to life of the condemned person took no account of the right to life of which he had deprived his victim. The victim's rights were of overriding importance. In her country, the death penalty was carried out only for major crimes, such as treason, espionage, destruction of military facilities in wartime, crimes against the State, various forms of pollution and drug trafficking. Abolition of the death penalty might be desirable but could only be gradual, and that over a long period of time. Meanwhile, it was not prohibited under international law.

13. Mr. DEMBRI (Algeria) said that the draft resolution aimed at universality, but its approach was not compatible with the sovereign right of States. He understood the principle whereby life should be protected and irreparable acts should not be committed; yet victims of embargoes imposed by the international community died as surely as a person executed by his Government. The secret services of countries opposed to the death penalty had, on many occasions, assassinated political opponents. The meaning of the death penalty was thus open to various interpretations; the problem would not be solved by the imposition of one interpretation. It would be more fruitful to discuss the establishment of moratoriums: his country had done so in 1993, despite its difficult circumstances. His delegation would, have to vote against the draft resolution as it stood.

14. Mr. CHAIMONGKOL (Thailand) said that, according to a survey conducted in 1999, the majority of Thais were still convinced of the need to retain the death penalty both as a deterrent and to protect the rights of victims. A democratic Government had to abide by the decision of its people and his delegation would thus vote against a draft resolution.

15. The death penalty was applied in practice in Thailand only to the most serious crimes and his Government scrupulously followed the provisions of article 6 of the International Covenant on Civil and Political Rights. As for the means used, lethal injection had replaced the firing squad. All those measures reflected his Government's commitment to the humane treatment of persons facing the death penalty. Preventive measures and rehabilitative schemes, however, to which his Government had devoted considerable efforts, were far more effective in dealing with the problem at its root.

16. At the request of the representative of the United States of America, a vote was taken by roll-call on the draft resolution.

17. India, having been drawn by lot by the Chairperson, was called upon to vote first.

In favour: Argentina, Belgium, Brazil, Canada, Colombia, Costa Rica, Czech Republic, Democratic Republic of the Congo, Ecuador, France, Germany, Italy, Latvia, Mauritius, Mexico, Niger, Norway, Peru, Poland, Portugal, Romania, Russian Federation, South Africa, Spain, United Kingdom of Great Britain and Northern Ireland, Uruguay, Venezuela.

Against: Algeria, Burundi, China, Indonesia, Japan, Kenya, Libyan Arab Jamahiriya, Malaysia, Nigeria, Pakistan, Qatar, Republic of Korea, Saudi Arabia, Swaziland, Syrian Arab Republic, Thailand, United States of America, Viet Nam.

Abstaining: Cameroon, Cuba, Guatemala, India, Madagascar, Senegal, Zambia.

18. The draft resolution was adopted by 27 votes to 18, with 7 abstentions.

19. Mr. ATTAR (Saudi Arabia) said that his delegation, like those of Algeria, Burundi, China, Indonesia, Japan, Liberia, Libyan Arab Jamahiriya, Malaysia, Nigeria, Qatar, Swaziland, Syrian Arab Republic, Thailand and Viet Nam and 44 observer delegations, dissociated itself from the draft resolution. The delegations concerned had issued a joint statement explaining their reasons, which they would like circulated as an official document of the Commission.

Draft resolution on promotion of the right of peoples to peace (E/CN.4/2001/L.95)

20. Mr. REYES RODRÍGUEZ (Cuba) introduced the draft resolution which aimed to consolidate and promote the international community's conviction that "life without war serve(d) as the primary international prerequisite for the material well-being, development and progress of countries, and for the full implementation of the rights and fundamental freedoms proclaimed by the United Nations", as enshrined in the Declaration on the Right of Peoples to Peace (General Assembly resolution 39/11 of 12 November 1984). Paragraphs 1-3 were drawn from that Declaration, while paragraph 4 was drawn from the Declaration on the Right to Development (General Assembly resolution 52/136 of 12 December 1997).

21. Following extensive open-ended consultations, a significant part of the text and the original title ("human rights and disarmament") had been modified to ensure that the draft resolution would be widely acceptable. The international community must reaffirm the right of peoples to peace as a matter of priority.

22. Mrs. IZE-CHARRIN (Secretary of the Commission) said that the representatives of Kenya and Madagascar, and the observers for Panama and Tunisia, had become sponsors of the draft resolution, which had no financial implications.

23. Mr. NOIRFALISSE (Belgium), speaking in explanation of the position of the European Union and its associated countries, said that some of the issues raised in the draft resolution were better dealt with in other forums. International Peace and Security were essential for the realization of all human rights, including the right to development, but military spending continued to be high. There was therefore a need for Governments to set priorities in favour of development and the promotion and protection of human rights.

24. The draft resolution dealt only with the relationship between States and not with the relationship between a State and its citizens, which was the Commission's core mandate. Moreover, the Declaration on the Right of Peoples to Peace had not been agreed to by consensus.

The Union was also uncomfortable with the idea that there was a right to peace, which was not established in any international human rights instrument. Those members of the Union and associated countries that were members of the Commission would thus vote against the draft resolution.

25. Ms. GERVAIS-VIDRICAIRE (Canada), speaking also on behalf of Norway, said that neither delegation had supported the Declaration on the Right of Peoples to Peace (which had been approved by the General Assembly in 1984 by 92 votes to none, with 34 abstentions). Both delegations maintained their concerns regarding the concept of the "right to peace", including the content of such a right and the specific obligations of States. The draft resolution dealt with matters more appropriately addressed in other forums, such as the General Assembly, Security Council and Conference on Disarmament. She thus urged the members of the Commission to oppose the draft resolution.

26. Mr. MOOSE (United States) said that his delegation was deeply concerned that the draft resolution dealt largely with disarmament and relations between States, issues which were more appropriately addressed in the First Committee of the General Assembly and other forums. The Commission should avoid politicization.

27. At the request of the representative of Belgium, a vote was taken by roll-call on the draft resolution.

28. The Democratic Republic of the Congo, having been drawn by lot by the Chairperson, was called upon to vote first.

In favour: Algeria, Burundi, China, Costa Rica, Cuba, Democratic Republic of the Congo, Ecuador, Indonesia, Kenya, Libyan Arab Jamahiriya, Madagascar, Malaysia, Mauritius, Mexico, Niger, Nigeria, Pakistan, Peru, Qatar, Russian Federation, Saudi Arabia, South Africa, Swaziland, Syrian Arab Republic, Thailand, Uruguay, Venezuela, Viet Nam, Zambia.

Against: Belgium, Canada, Czech Republic, France, Germany, Italy, Japan, Latvia, Norway, Poland, Portugal, Republic of Korea, Romania, Spain, United Kingdom of Great Britain and Northern Ireland, United States of America.

Abstaining: Argentina, Brazil, Cameroon, Colombia, Guatemala, India, Senegal.

29. The draft resolution was adopted by 29 votes to 16, with 7 abstentions.

30. Ms. KUNADI (India) said that, although the text contained agreed language from various international instruments and although her delegation noted in particular the second preambular paragraph and paragraph 4, it did not consider the Commission to be the appropriate forum for examining disarmament issues.

31. Ms. RUIZ DE ANGULO (Costa Rica), said that she did not agree with the preceding speaker. The Commission was indeed the appropriate forum to address such issues, since

disarmament was crucial to the protection of human rights. The draft resolution complemented other resolutions adopted by the Commission with the aim of promoting a culture of peace. Costa Rica possessed no army, having opted to devote its national resources to education and development.

Draft decision on reservations to human rights treaties (E/CN.4/2001/L.103)

32. Mr. SABHARWAL (India), introducing the draft decision on behalf of the Asian Group, said it related to draft decision 12 recommended to the Commission by the Sub-Commission on the Promotion and Protection of Human Rights (E/CN.4/2001/2-E/CN.4/Sub.2/2000/46, chapter I). The preparation of a comprehensive study on reservations to human rights treaties by one of the Sub-Commission's experts would merely duplicate work being carried out by the International Law Commission on reservations to normative multilateral treaties, including human rights treaties. The Sub-Commission should await the results of that work, especially in view of the pronouncement by that Commission that, in the event of the inadmissibility of a reservation, it was the reserving State that had the responsibility for taking action.

33. Mrs. IZE-CHARRIN (Secretary of the Commission) said that the draft decision had no financial implications.

34. The draft decision was adopted.

Draft decision on the observance of the human rights and fundamental freedoms contained in the Universal Declaration of Human Rights by States which are not parties to the International Covenants on Human Rights, recommended to the Commission by the Sub-Commission on the Promotion and Protection of Human Rights (E/CN.4/2001/2-E/CN.4/Sub.2/2000/46, chapter I; draft decision 11)

35. Mr. AL SHEIKH (Saudi Arabia), drawing attention to Commission resolution 2000/67 of 26 April 2000, said that the draft decision recommended by the Sub-Commission related to a matter of which the Commission was already seized. If adopted, it would effectively extend the period of work of the Sub-Commission. In view of the fact that the Commission had decided to limit the Sub-Commission's sessions to three weeks, his delegation proposed the following draft decision for the Commission's consideration:

> "At its 78th meeting, on 25 April, 2001, the Commission on Human Rights, taking note of resolution 2000/23 of 18 August 2000 of the Sub-Commission on the Promotion and Protection of Human Rights concerning the request for the holding of a seminar, decides that the Sub-Commission should reconsider its request in the light of the developments in its work."

36. The draft decision proposed orally by the delegation of Saudi Arabia was adopted.

37. Mr. MENDONÇA e MOURA (Portugal), supported by Ms. GLOVER (United Kingdom), Mr. DE PALACIO ESPAÑA (Spain), Mr. MORENO (Italy), Mr. NOIRFALISSE (Belgium) and Mr. MAGRO (France), said he hoped that, when re-examining the issue, the Sub-Commission would find it useful and important to hold the

proposed seminar of States that were not parties to the two International Covenants on Human Rights on obstacles to their ratification and ways of surmounting them as a matter of priority.

38. Mrs. IZE-CHARRIN (Secretary of the Commission), responding to a question by Mr. REYES RODRÍGUEZ (Cuba), said that the consideration of certain draft texts (E/CN.4/2001/L.87, L.88 and L.96 and E/CN.4/2001/2-E/CN.4/Sub.2/2000/46, chapter I, draft decision 14) would unfortunately have to be postponed for a few hours until their financial implications had been confirmed by the Secretariat.

Draft resolution on impunity (E/CN.4/2001/L.77/Rev.1)

39. Ms. VENTURA (Canada), introducing the draft resolution, said that its sponsors were drawn from all regions of the world. The failure of States to acknowledge gross violations of human rights that had occurred in their territory, and to hold those responsible for such violations accountable, was one reason why genocide, extrajudicial killings, enforced disappearances and torture continued to be committed.

40. In the eleventh preambular paragraph and paragraph 7, the words "in various countries" should be replaced by the words "currently under consideration in a few countries". In paragraph 7 also, the words "consider ways to" should be added before the words "support the initiatives".

41. Mrs. IZE-CHARRIN (Secretary of the Commission) said that the representatives of Belgium, Chile, Costa Rica, Czech Republic, Ecuador, Germany, Latvia, Poland, Portugal, Republic of Korea, Romania, South Africa and the United Kingdom, and the observers for Angola, Armenia, Austria, Bosnia and Herzegovina, Ethiopia, Finland, Georgia, Greece, Haiti, Hungary, Netherlands, Sweden and the former Yugoslav Republic of Macedonia, had become sponsors of the draft resolution.

42. Mr. LIU Xinsheng (China), speaking in explanation of vote before the voting, said that his Government continued to attach importance to the issue of impunity, as evidenced by a variety of measures recently introduced at the domestic level. His delegation also recognized the importance of international cooperation on the issue, which was why it had joined the consensus on a similar draft resolution at the previous session.

43. With respect to the text currently under consideration, however, his delegation had decided to abstain; not only had it not been invited to participate in all consultations, but because its concerns had not been accommodated. Such an approach to the drafting of resolutions led to confrontation in the Commission and regrettably caused many draft texts that might have been adopted by consensus to be put to a vote.

44. Mr. REYES RODRIGUEZ (Cuba) expressed surprise at the absence of any mention of the impunity enjoyed by the Israeli authorities with regard to the grave violations of human rights being perpetrated in the occupied Palestinian territories. Had discussions been more participatory from the start, it might have been possible to reach consensus; as it was, his delegation would be forced to abstain. In future, draft resolutions on the subject should take a

comprehensive approach to situations of human rights violations; they should also adopt a balanced approach to violations of civil and political rights and violations of economic, social and cultural rights.

45. Mr. SABHARWAL (India) said that his delegation had serious reservations regarding the increasing adulatory references to the International Criminal Court and the Rome Statute. The latter had several deficiencies: it brought under the jurisdiction of the International Criminal Court crimes that were within the national jurisdiction of States, it did not include terrorism as a crime against humanity and it gave special discriminatory powers to the United Nations Security Council to refer cases to, or block their consideration by, the Court. For those reasons, his Government had not yet signed the Statute and it did not believe that the adoption thereof could be regarded as an event of historic significance. It also had reservations regarding the prescriptive language used, for example, in paragraph 7. It would therefore abstain from voting on the draft resolution.

46. Mr. SAHRAOUI (Algeria) expressed regret that, due to the fact that China had not been included in the consultations and the reference in the draft resolution to the Rome Statute which was not yet in force, it would not be possible to reach a consensus. But for the fact that a roll-call had already been requested, he would have urged delegations to make a further effort to reach consensus. His delegation would, however, vote in favour of the text.

47. At the request of the representative of China a vote was taken by roll-call on the draft resolution.

48. Thailand, having been drawn by lot by the Chairperson, was called upon to vote first.

In favour: Algeria, Argentina, Belgium, Brazil, Burundi, Cameroon, Canada, Colombia, Costa Rica, Czech Republic, Ecuador, France, Germany, Guatemala, Indonesia, Italy, Japan, Kenya, Latvia, Madagascar, Mauritius, Mexico, Niger, Nigeria, Norway, Peru, Poland, Portugal, Republic of Korea, Romania, Saudi Arabia, Senegal, South Africa, Spain, Swaziland, United Kingdom of Great Britain and Northern Ireland, Uruguay, Venezuela, Zambia.

Against: None.

Abstaining: China, Cuba, Democratic Republic of the Congo, India, Libyan Arab Jamahiriya, Malaysia, Pakistan, Qatar, Russian Federation, Syrian Arab Republic, Thailand, United States of America, Viet Nam.

49. The draft resolution was adopted by 39 votes to none, with 13 abstentions.

50. Mr. MOOSE (United States) said that, despite his delegation's strong commitment to the principle of individual criminal responsibility and the responsibility of States to prosecute those responsible for genocide, crimes against humanity and violations of international humanitarian law, it had had to abstain from voting because of its fundamental concerns regarding the eighth and tenth preambular paragraphs and paragraphs 3, 4 and 6.

51. Mr. BELL LEMUS (Colombia) said that, because of excessive haste, the Commission was destroying the possibility of reaching consensus on issues of the utmost importance for the promotion of human rights.

52. Mr. NAESS (Norway) said that, although his delegation had voted in favour of the draft resolution, it had reservations about the language of several paragraphs. Those reservations also applied to other resolutions which had been adopted at the current session. Human rights obligations rested solely with Governments. No human rights violation as such constituted a criminal offence. The international community could only call on States to bring the perpetrators of criminal offences to justice, either under domestic law or under international law. His comments did not, however, signify any lessening of his Government's strong support for the fight against impunity.

Draft resolution on human rights and bioethics (E/CN.4/2001/L.87)

53. Mr. HENAULT (France), introducing the draft resolution, said it invited the Secretary-General to consider establishing a working group of independent experts to reflect, in particular, on the possible follow-up to the Universal Declaration on the Human Genome. It also thanked the Governments that had responded to the request for information in Commission resolution 1999/63.

54. Mrs. IZE-CHARRIN (Secretary of the Commission) said that the representatives of Algeria, Burundi, Cameroon and France and the observers for Georgia, Greece, Israel and Sweden had joined the sponsors of the draft resolution, which had no financial implications.

55. The draft resolution was adopted.

Draft resolution on the role of good governance in the promotion of human rights (E/CN.4/2001/L.88).

56. Mr. MONTWEDI (South Africa), introducing the draft resolution, said that it sought in a modest way to deal with good governance at the national level. He hoped that it could be adopted by consensus.

57. Mrs. IZE-CHARRIN (Secretary of the Commission) announced that the representative of Cameroon and the observers for Azerbaijan, Cyprus, Ghana, Mauritius and Netherlands had become sponsors of the draft resolution.

58. The draft resolution was adopted.

59. Ms. KUNADI (India) said that her delegation had joined the consensus because it agreed with the principles outlined in the third, fifth and sixth preambular paragraphs. However, paragraph 4 was ambiguous. Each State was free to choose the good governance practices that best suited it; such practices could not be imposed from outside.

60. Mr. SAHRAOUI (Algeria) said that his delegation had gone along with the draft resolution even though it would have preferred paragraph 1 to say that transparent government was one of the foundations rather than the foundation on which good governance rested.

Draft resolution on human rights and international solidarity (E/CN.4/2001/L.96)

61. Mr. REYES RODRIGUEZ (Cuba), introducing the draft resolution, said that, while the importance of international cooperation had repeatedly been stressed, the commitment of the international community had not always been followed by action as demonstrated by the steady decline in official development assistance (ODA) in recent years. In answer to the urgings of the representative of a developed country, the sponsors had decided not to press for the appointment of an independent expert on the promotion of international solidarity. Accordingly, paragraphs 4, 5 and 6 of the text should be deleted. However, they reserved the right to take the matter up again at the Commission's next session if no real progress had been made by then. They hoped that the text could be adopted by consensus.

62. Mrs. IZE-CHARRIN (Secretary of the Commission) announced that the representatives of India, Kenya and Madagascar and the observers for Tunisia and Yemen had joined the sponsors of the draft resolution.

63. Mr. WATANABE (Japan), speaking in explanation of vote before the voting, said that, while his Government was willing to discuss the impact of economic issues on human rights in the Commission, it believed that some draft resolutions, including the one under consideration, seemed to go beyond the Commission's mandate. Its subject would be better dealt with in forums with a more appropriate mandate and stronger expertise such as the Development Assistance Committee (DAC) of the Organization for Economic Cooperation and Development (OECD), the World Trade Organization (WTO), the World Bank and the International Monetary Fund (IMF). Those forums should be asked to consider whether the ideas insisted upon by some States were truly viable.

64. In the current discussion, some countries emphasized an "obligation" to international cooperation, while overlooking the most important element for development, which was each country's responsibility for and ownership of its development efforts, and the endeavours made by international organizations on behalf of development. Such a lopsided emphasis and the conspicuous omission of vital elements would worsen the chances of closer cooperation between the recipient countries and donors.

65. Despite a severe domestic economic situation, Japan had been the world's largest donor of ODA since 1991, and his Government would face difficulties convincing its public to support the continued extension of such assistance if they felt forced to do so with an unnecessary pretence of "obligation". His delegation found it totally impossible to support the draft resolution.

66. Ms. GERVAIS-VIDRICAIRE (Canada), speaking also on behalf of the delegation of Norway, said that, despite the revisions that had just been made, her delegation still had concerns about the draft resolution, particularly the paragraphs on globalization and the link between international assistance, development and respect for human rights, which addressed a variety of

complex issues. Although the text was drawn from existing instruments and documents, the quotations were selective or taken out of context. Her delegation was still unclear as to what international solidarity was meant to imply in the context of the draft resolution. The draft resolution also addressed relations between States and not between a State and its citizens, which was what the focus of the Commission should be. The delegations of Canada and Norway would vote against the draft resolution.

67. Mr. NOIRFALISSE (Belgium), explaining the position of the European Union and its associated countries on the draft resolution, said that the Union firmly believed that the promotion and protection of human rights and fundamental freedoms of citizens remained the primary responsibility of the State. The relationship between the State and its citizens and the full exercise of individuals' human rights vis-à-vis the State was the core mandate of the Commission, but the draft resolution dealt only with the relationship between States.

68. The Union strongly supported an effective follow-up to the commitments undertaken at the Millennium Summit, but to achieve the goal of halving by 2015 the proportion of the world's people whose income was less than US$ 1 a day would require the creation of an enabling environment at national and global levels, as well as political dialogue, respect for human rights, democratic principles, rule of law and good governance within each country. The Union fully recognized the importance of international cooperation in mobilizing resources needed by developing countries to finance sustained development. However, the draft resolution failed to reflect the advances and efforts made by the international community and the relevant international organizations in addressing the obstacles to development, and the Union questioned the value of promoting an initiative on international solidarity without due regard to consensus resolutions and decisions adopted in other forums. The Union welcomed the revisions made by the representative of Cuba, but could not support the draft resolution and its members and associates which were members of the Commission would vote against it.

69. Mr. MAGRO (France), having endorsed the statement made by the representative of Belgium on behalf of the European Union and thanked the representative of Cuba for his revisions, said that that initiative had, unfortunately, come too late to allow for its full discussion. France would thus be voting against the draft resolution.

70. At the request of the representative of the United Kingdom, the vote was taken by roll-call on the draft resolution.

71. Indonesia, having been drawn by lot by the Chairperson, was called upon to vote first.

In favour: Algeria, Argentina, Brazil, Burundi, Cameroon, China, Colombia, Costa Rica, Cuba, Democratic Republic of the Congo, Ecuador, Guatemala, India, Indonesia, Kenya, Libyan Arab Jamahiriya, Madagascar, Malaysia, Mauritius, Mexico, Niger, Nigeria, Pakistan, Peru, Qatar, Russian Federation, Saudi Arabia, Senegal, South Africa, Swaziland, Syrian Arab Republic, Thailand, Uruguay, Venezuela, Viet Nam, Zambia.

Against: Belgium, Canada, Czech Republic, France, Germany, Italy, Japan, Latvia, Norway, Poland, Portugal, Republic of Korea, Romania, Spain, United Kingdom of Great Britain and Northern Ireland, United States of America.

Abstaining: None.

72. The draft resolution was adopted by 36 votes to 16.

73. Ms. GLOVER (United Kingdom) said that, in addition to the reasons adduced on behalf of the European Union, her delegation had voted against the draft resolution because it quoted selectively and not always accurately from key documents which were relevant to the important field of international development cooperation. Her Government attached too much importance to international development and to the relevant agreements built on consensus over recent years to accept that.

74. The resolution also contained elements, which had been discussed and debated at length in the working group on the right to development, relating to the notion that States - because of constraints stemming from the international environment - could in some way be relieved of their obligations to promote and protect the human rights for their citizens. Her delegation could not agree to anything that sought to weaken the primary responsibility of States in that field. The resolution in essence dealt with the relationship that existed, or should exist, between States, and not the relationship between States and their citizens, which was the proper business of the Commission.

Draft decision on human rights and human responsibilities recommended to the Commission by the Sub-Commission on the Promotion and Protection of Human Rights (E/CN.4/2001/2-E/CN.4/Sub.2/2000/46, chapter I, draft decision 14)

75. Ms. WONG (Office of the High Commissioner for Human Rights) said that no provisions had been made under the Programme Budget for the current biennium and the proposed programme budget for the biennium 2002-2003 for the activities referred to in the draft decision. The costs were estimated at US$ 30,100 for 2001, US$ 35,300 for 2002 and US$ 5,200 for 2003. Every effort would be made to absorb those costs within existing resources.

76. Mr. REYES RODRÍGUEZ (Cuba) said that the draft decision concerned the implementation of a mandate that had already been granted. He wished merely to point out that the relationship between human rights and human responsibilities was as old as the doctrine of human rights itself, and lay behind the Universal Declaration of Human Rights.

77. Mr. NOIRFALISSE (Belgium), explaining the position of the European Union and its associated countries on the draft resolution, said that the Union had expressed serious reservations in the Commission at its previous session regarding resolution 2000/63 on human rights and human responsibilities, which had been adopted by a vote. Those reservations were still valid. While the Union acknowledged the importance of moral, ethical and even philosophical issues which underpinned the debate on the relationship between the individual,

his or her community and the State, it did not subscribe to the idea that human rights could be enjoyed or protected only if that same individual fulfilled his or her obligations vis-à-vis the community and/or the State. Each individual's human rights should be promoted and protected unconditionally.

78. Neither the Commission nor the Sub-Commission should be regulating specific responsibilities of the individual towards the State. The main responsibility for legal regulation of minimum standards for individual behaviour rested with the State through legislation, including penal law, and its jurisdiction within the limits set by international human rights standards and obligations. The Commission and Sub-Commission should focus their work on human rights and on the duties of the State towards the individual.

79. The International Bill of Rights set out the limits of the ability of Governments to restrict or infringe upon the individual's human rights. It stated that everyone should be subject only to such limitations as were determined by law for the purposes of securing due recognition and respect for the human rights and freedoms of others and of meeting the just requirement of morality, public order and the general welfare of a democratic society. The very reference to duties and responsibilities might be used by Governments to impose limits or restrictions upon existing internationally recognized standards, and had to be firmly rejected.

80. The Union did not support the request by the Sub-Commission for a study on the issue or anything related to the subject. The Union was also concerned that, by asking the Sub-Commission expert to present his report directly to the Commission, the draft decision was ignoring normal practice whereby reports were first discussed by the Sub-Commission. That undermined the Sub-Commission's collective advisory role, reaffirmed in Commission resolution E/CN.4/2001/L.100 adopted only the day before by consensus. That resolution stated that the Sub-Commission should give full consideration to studies and working papers by special rapporteurs and its members before sending them to the Commission.

81. For the reasons stated, those members of the Union and associated countries that were members of the Commission would vote against the draft decision. The Union also reserved its right to submit its comments on the note submitted by the proposed special rapporteur (E/CN.4/2001/96).

82. Mr. REYES RODRÍGUEZ (Cuba), speaking in explanation of vote before the voting, drew attention to the fact that the proposed special rapporteur had established clear guidelines regarding his objectives in his note (E/CN.4/2001/96); his sources were to be wide-ranging and were to include individuals of high standing in the human rights field in the North. All delegations committed to fulfilling the Commission's mandate should join his delegation in voting for the draft decision.

83. Mr. SAHRAOUI (Algeria) drew attention to paragraph 6 (b) of the resolution on the work of the Sub-Commission (E/CN.4/2001/L.100) which the Commission had adopted by consensus. The paragraph referred to the considerable latitude which the Sub-Commission had to give particular attention to the selection of studies specifically recommended by the Commission.

84. At the request of the representative of Belgium, a vote was taken by roll-call on the draft decision.

85. Kenya, having been drawn by lot by the Chairperson, was called upon to vote first.

In favour: Algeria, Argentina, Brazil, Burundi, Cameroon, China, Colombia, Cuba, Democratic Republic of the Congo, Ecuador, India, Indonesia, Kenya, Libyan Arab Jamahiriya, Madagascar, Malaysia, Mauritius, Mexico, Niger, Nigeria, Pakistan, Peru, Qatar, Russian Federation, Saudi Arabia, Senegal, South Africa, Swaziland, Syrian Arab Republic, Thailand, Uruguay, Venezuela, Viet Nam, Zambia.

Against: Belgium, Canada, Czech Republic, France, Germany, Italy, Japan, Latvia, Poland, Portugal, Romania, Spain, United Kingdom of Great Britain and Northern Ireland, United States of America.

Abstaining: Costa Rica, Guatemala, Norway, Republic of Korea.

86. The draft decision was adopted by 34 votes to 14, with 4 abstentions.

87. Ms. RUIZ de ANGULO (Costa Rica) said that her delegation had abstained not because of the nature of the issue but in order to suggest that the special rapporteur should work without prejudice regarding individual States and on the basis simply of the evidence.

The meeting rose at 6.15 p.m.

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COMMISSION ON HUMAN RIGHTS

Fifty-seventh session

SUMMARY RECORD OF THE 79th MEETING

Held at the Palais des Nations, Geneva,
on Wednesday, 25 April 2001 at 6 p.m.

Chairperson: Mr. DESPOUY (Argentina)

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The meeting was called to order at 6.15 p.m.

RIGHTS OF THE CHILD (agenda item 13) (continued) (E/CN.4/2001/L.89 and L.98)

1. The CHAIRPERSON said that, in order to allow further time for informal consultations, the meeting would be briefly suspended.

The meeting was suspended at 6.15 p.m. and resumed at 6.55 p.m.

Draft resolution on the abduction of children from northern Uganda (E/CN.4/2001/L.89)

2. Ms. MOHAMED (Kenya), speaking as coordinator of the African Group, said that the African Group had agreed to maintain the draft resolution in the form in which it had been introduced on the preceding day. She expressed appreciation of the agreement by the representative of the Democratic Republic of the Congo to join the sponsors. The Special Representative of the Secretary-General on children in armed conflict had called the situation in northern Uganda a human rights and humanitarian disaster and it was clearly important that it should be addressed by the international community as a matter of priority and urgency.

3. Mr. KANBINGA SELE (Democratic Republic of the Congo) said that, when the draft resolution had first been submitted, he had been shocked to find that Uganda, as a sponsor, was joining in calling for condemnation of the Lord's Resistance Army, while Uganda itself was deeply involved in the abduction of children. Since a consensus appeared to be taking shape, however, his delegation would support the draft resolution in a spirit of solidarity and despite its reservations.

4. The draft resolution was adopted without a vote.

Draft resolution on the rights of the child (E/CN.4/2001/L.98)

5. Mr. MOLANDER (Observer for Sweden), speaking on behalf of the European Union, the Latin American and Caribbean Group and all other sponsors and introducing the draft resolution, drew attention to the emphasis placed on the importance of integrating a children's rights approach into the work of United Nations bodies and mechanisms and on means to strengthen the implementation of the Convention. The European Union and the Latin American and Caribbean Group welcomed recent advances in that regard, such as the adoption of the two Optional Protocols relating to children in armed conflict and to the sale of children, child prostitution and child pornography, and called for their ratification.

6. He had not had time to consult the other sponsors, but hoped that they would agree to the deletion of the words "as soon as possible" in operative paragraph 1.

7. Ms. IZE-CHARRIN (Secretary of the Commission) announced that the delegations of Angola, Australia, Brazil, Canada, Ecuador, Ethiopia, Ghana, India, Madagascar, Nepal, New Zealand, Paraguay, Philippines, Saudi Arabia, Tunisia and the former Yugoslav Republic of Macedonia wished to join in sponsoring the draft resolution.

8. Ms. WONG (Secretariat), speaking in accordance with rule 28 of the rules of procedure of the functional commissions of the Economic and Social Council, said that the decision in operative paragraph 30 of the draft resolution to renew the mandate of the Special Rapporteur on the sale of children, child prostitution and child pornography would require no additional resources as a result of the adoption of the draft resolution.

9. The draft resolution was adopted without a vote.

10. Mr. MOOSE (United States of America) thanked the sponsors of the draft resolution for taking account of his delegation's views. His country's commitment to the interests of children worldwide was reflected in the programmes it had initiated and supported both domestically and internationally and in the legal protection which it offered to children and which was among the strongest in the world. President Bush had placed great emphasis on education as a means of ensuring that no child should "be left behind". Although it had joined in the consensus on the resolution, his delegation had a few reservations. The first was that, while States might be encouraged to consider ratifying the Convention, it was wrong to assert that there was an obligation to do so. It was also inappropriate to use the Convention as a rigid measure of a nation's commitment to children's interests. As a non-party to the Convention, his Government did not accept obligations based on it and did not agree that the Convention was the best or only standard for developing policies that benefited children. The references to a rights-based approach in the draft resolution also posed significant problems for his Government. While the Convention might be a positive tool in promoting child welfare in all countries that had adopted it, his Government could not support an approach that would create entitlements to economic, social or cultural rights.

EFFECTIVE FUNCTIONING OF HUMAN RIGHTS MECHANISMS

(a) TREATY BODIES

(b) NATIONAL INSTITUTIONS AND REGIONAL ARRANGEMENTS

(c) ADAPTATION AND STRENGTHENING OF THE UNITED NATIONS MACHINERY FOR HUMAN RIGHTS

(agenda item 18) (continued) (E/CN.4/2001/L.64, L.84, L.91, L.97, L.99, L.102, L.104)

Draft resolution on equitable geographical distribution of the membership of the human rights treaty bodies (E/CN.4/2001/L.64)

11. Mr. REYES RODRÍGUEZ (Cuba), introducing the draft resolution, said that the importance of the work of treaty bodies was universally recognized and it was to ensure the effective performance of that work that the sponsors had submitted the draft resolution. The positive experience of the Committee on Economic, Social and Cultural Rights, which applied a quota system in the distribution of its seats to regional groups, thus ensuring that different cultures, points of view and legal systems were adequately represented, showed that there was no reason for some delegations to be opposed to quotas. As things stood, one region of the world was favoured at the expense of the rest. The operative part of the draft resolution

contained recommendations to the General Assembly to encourage States parties to make the necessary changes. The sponsors hoped that it would be possible to adopt the draft resolution by consensus.

12. Ms. IZE-CHARRIN (Secretary of the Commission) said that the Dominican Republic and Tunisia wished to join the sponsors of the draft resolution, which had no financial implications.

13. Ms. GERVAIS-VIDRICAIRE (Canada), speaking also on behalf of the delegations of Australia, New Zealand and Norway, said that they attached great importance to the establishment of an effective treaty body system. When members of treaty bodies were being elected, a number of factors should be taken into consideration, of which equitable geographical distribution was only one. Other factors were gender balance and the fact that members should be of high moral character, acknowledged independence and recognized competence in the field of human rights. While it might be true that some regions of the world were underrepresented, that factor should not be given greater weight than the others. The impression should be avoided that, by making recommendations on that subject, the Commission and the General Assembly were establishing a quota system. That could be done only by the States parties to the treaty bodies concerned.

14. At the request of the representative of Cuba, a vote was taken by roll-call on the draft resolution.

15. Cameroon, having been drawn by lot by the Chairperson, was called upon to vote first.

In favour: Algeria, Argentina, Burundi, Cameroon, China, Colombia, Costa Rica, Cuba, Democratic Republic of the Congo, Ecuador, Guatemala, India, Indonesia, Kenya, Libyan Arab Jamahiriya, Madagascar, Malaysia, Mauritius, Mexico, Niger, Nigeria, Pakistan, Peru, Qatar, Russian Federation, Saudi Arabia, Senegal, South Africa, Swaziland, Syrian Arab Republic, Thailand, Uruguay, Venezuela, Viet Nam, Zambia.

Against: Belgium, Canada, Czech Republic, France, Germany, Italy, Japan, Latvia, Netherlands, Norway, Poland, Portugal, Romania, United Kingdom of Great Britain and Northern Ireland, United States of America.

Abstaining: Brazil, Republic of Korea.

16. The draft resolution was adopted by 35 votes to 15, with 2 abstentions.

Draft resolution on regional cooperation for the promotion and protection of human rights in the Asian and Pacific region (E/CN.4/2001/L.84)

17. Mr. CHAIMONGKOL (Thailand), introducing the draft resolution, pointed out that, in operative paragraph 12, the word "expressed" should be replaced by the word "exchanged" and that, in operative paragraph 13, the word "concerned" should be added after the word "groups".

18. The Asian and Pacific region was characterized by a wide historical, economic, political, cultural and religious diversity, but its countries attached great importance to the promotion and protection of human rights and fundamental freedoms. They also recognized the importance of regional cooperation and since 1990, with the assistance of the Office of the High Commissioner for Human Rights, they had adopted extensive consultation and cooperation programmes. The sixth annual workshop in Tehran in 1998 had adopted a framework which emphasized cooperation in four areas: human rights education, national institutions for the promotion and protection of human rights, national plans of action and strategies for the fulfilment of the right to development and the achievement of economic, social and cultural rights. The draft resolution reflected that situation and highlighted important elements from the conclusion of the ninth annual regional workshop held in Bangkok earlier in 2001.

19. The draft resolution was adopted without a vote.

Draft resolution on human rights and thematic procedures (E/CN.4/2001/L.91)

20. Mr. SOMOL (Czech Republic), introducing the draft resolution, said that it was similar to those which his delegation had submitted on that subject in past years. At the current session, there had seemed to be every prospect of submitting a draft that would be adopted by consensus, but a number of completely new proposals had been put forward at the last minute and were contained in document E/CN.4/2001/L.104. Because of time constraints, the sponsors, who had been unable to accept the new proposals as they stood, had been obliged to retain their original draft without change. In the circumstance, he proposed that the Commission should defer its consideration of the matter until the next session.

21. Mr. ALFONSO MARTÍNEZ (Cuba) said that the account by the representative of the Czech Republic did not fully reflect the facts. Three of the six amendments contained in document E/CN.4/2001/L.104 had been known to participants in the open-ended consultations on draft resolution E/CN.4/2001/L.91 two weeks previously. It was true that his delegation had received further instructions in connection with the draft resolution only several days before the deadline, which had been included in document E/CN.4/2001/L.104. A more general point was that the present occasion was not the first on which there had been a tendency to limit consultations to delegations that had previously supported similar resolutions, thus making them unilateral in nature. He would not make use of the possibility available to him under the rules of procedure to take over the draft resolution that it was now proposed to withdraw and keep it before the Commission, but he did point out that three of the amendments proposed by his delegation derived from recommendations of the inter-sessional Working Group on Enhancing the Effectiveness of Mechanisms of the Commission. His delegation did not wish to prevent the successful completion of the session and therefore would not object to the proposal that the draft

resolution E/CN.4/2001/L.91 should be considered at the Commission's next session, but he warned the sponsors that document E/CN.4/2001/L.104 would be accompanying the draft resolution like its shadow.

22. The proposal by the Czech delegation was adopted.

Draft resolution on the composition of the staff of the Office of the United Nations High Commissioner for Human Rights (E/CN.4/2001/L.97)

23. Mr. FERRER RODRIGUEZ (Cuba), introducing the draft resolution, said that the text took account of the principle established in Article 101, paragraph 3, of the Charter of the United Nations, which provided a firm basis for the consideration of human rights issues. The third preambular paragraph had been added by way of reference to the Vienna Declaration. Generally speaking, the resolution expressed concern about the unbalanced geographical distribution of the staff of the Office of the High Commissioner and indeed the annexes showed that most new recruits in recent years had come from one region, while there had been a 5 per cent drop in the number of African staff. The resolution likewise expressed support for a number of General Assembly resolutions on human resources management. In its operative part, it requested the Secretary-General to ensure that more staff from under-represented States were hired and reaffirmed the importance of guaranteeing universality, objectivity and non-selectivity.

24. His delegation proposed the deletion of operative paragraph 6 and some drafting changes to the Spanish version of the text to bring it into line with the English version.

25. He called on the members of the Commission to adopt the draft resolution by a large majority in order to guarantee the more equitable geographical distribution of the staff of the Office.

26. Ms. IZE-CHARRIN (Secretary of the Commission) announced that Colombia, the Dominican Republic, Lebanon, Madagascar, Malaysia, Myanmar, Nicaragua, the Syrian Arab Republic, Uganda, the United Arab Emirates and Zambia wished to join the sponsors of the draft resolution, which had no financial implications.

27. The CHAIRPERSON announced that Belgium, acting on behalf of the European Union, had requested that a separate vote should be taken on paragraphs 7 and 14.

28. Mr. NOIRFALISSE (Belgium), speaking on behalf of the European Union member States of the Commission on Human Rights, the Czech Republic, Latvia, Poland and Romania, said that his explanation of vote had been agreed to by the European Union, Bulgaria, Cyprus, Estonia, Hungary, Lithuania, Malta, Slovakia, Slovenia and Turkey. The European Union had serious reservations about the draft resolution because, under the Charter of the United Nations, the Fifth Committee was the only competent organ to deal with administrative, budgetary and human resources issues and it was the responsibility of the Secretary-General to secure the highest standards of efficiency, competence and integrity, while seeking to ensure as wide and as fair a geographical basis as possible. The European Union supported the Secretary-General's efforts in that direction and therefore strongly objected to the proposal contained in operative paragraph 7 of the draft resolution, since it infringed on the prerogatives of the Secretary-General

and was contrary to General Assembly resolution 53/221. For those reasons, the European Union also objected to operative paragraph 14. Moreover, the report requested in that paragraph already existed in document A/53/375.

29. The European Union called for a separate vote on those two operative paragraphs, as well as a vote on the draft resolution as a whole, and would vote against it.

30. Ms. MOLLESTAD SYLOW (Norway), speaking also on behalf of Canada, said that Norway and Canada would vote against paragraphs 7 and 14 and against the draft resolution because they did not believe that the subject matter of the draft resolution was within the competence of the Commission on Human Rights. Article 101 of the Charter conferred sole authority on the Secretary-General to appoint staff. Hence it was not incumbent on the Commission on Human Rights to try to manage the personnel policy and priorities of the Office of the United Nations High Commissioner for Human Rights.

31. Mr. MOOSE (United States of America) said that his Government had worked hard to support diversity in the workplace and hoped to foster those same aims within the United Nations. Article 101 of the United Nations Charter explicitly described how that goal was to be achieved. While his country supported the principle of equitable geographical distribution, it could not endorse proposals that sought to make that requirement paramount over all other considerations. For that reason, his delegation would vote against paragraphs 7 and 14 and against the draft resolution as a whole.

32. At the request of the representative of Belgium, a separate vote was taken on paragraphs 7 and 14 of the draft resolution.

33. At the request of the representative of Cuba, the vote was taken by roll-call.

34. The Republic of Korea, having been drawn by lot by the Chairperson, was called upon to vote first.

In favour: Algeria, Argentina, Brazil, Burundi, Cameroon, China, Colombia, Costa Rica, Cuba, Democratic Republic of the Congo, Ecuador, India, Indonesia, Kenya, Libyan Arab, Madagascar, Malaysia, Mauritius, Mexico, Niger, Nigeria, Pakistan, Peru, Qatar, Saudi Arabia, South Africa, Swaziland, Syrian Arab Republic, Thailand, Uruguay, Venezuela, Viet Nam, Zambia.

Against: Belgium, Canada, Czech Republic, France, Germany, Italy, Japan, Latvia, Netherlands, Norway, Portugal, Republic of Korea, Romania, Spain, United Kingdom of Great Britain and Northern Ireland, United States of America.

Abstaining: Guatemala, Russian Federation, Senegal.

35. Paragraphs 7 and 14 of the draft resolution were adopted by 33 votes to 16 with 3 abstentions.

36. At the request of the representative of Cuba, a vote was taken by roll-call on the draft resolution as a whole.

37. Argentina, having been drawn by lot by the Chairperson, was called upon to vote first.

In favour: Algeria, Argentina, Brazil, Burundi, Cameroon, China, Colombia, Costa Rica, Cuba, Democratic Republic of the Congo, Ecuador, India, Indonesia, Kenya, Libyan Arab Jamahiriya, Madagascar, Malaysia, Mauritius, Mexico, Niger, Nigeria, Pakistan, Peru, Qatar, Saudi Arabia, Senegal, South Africa, Swaziland, Syrian Arab Republic, Thailand, Uruguay, Venezuela, Viet Nam, Zambia.

Against: Belgium, Canada, Czech Republic, France, Germany, Italy, Japan, Latvia, Netherlands, Norway, Portugal, Republic of Korea, Romania, Spain, United Kingdom of Great Britain and Northern Ireland, United States of America.

Abstaining: Guatemala, Russian Federation.

38. The draft resolution was adopted by 34 votes to 16 with 2 abstentions.

Draft resolution on regional arrangements for the promotion and protection of human rights (E/CN.4/2001/L.99)

39. Mr. NOIRFALISSE (Belgium) introducing the draft resolution, said that regional arrangements had been a feature of the Commission's work for over 20 years and the subject had formed an important part of the Vienna Declaration and Programme of Action. He hoped that, as in the past, the draft resolution would be adopted without a vote.

40. Drawing attention to some drafting amendments, he said that, in the sixth preambular paragraph, the word "fundamental" should be replaced by the word "important". The following words should be added at the end of operative paragraph 4: "while bearing in mind the importance of international cooperation". In operative paragraph 10, the words "further enhances" should be replaced by the words "contributes to".

41. Ms. IZE-CHARRIN (Secretary of the Commisssion), said that Georgia, The former Yugoslav Republic of Macedonia, Malta, Mauritius, Mongolia and Panama wished to join the sponsors of the draft resolution, which had no financial implications.

42. The draft resolution was adopted without a vote.

Draft resolution on national institutions for the promotion and protection of human rights (E/CN.4/2001/L.102)

43. Mr. HEYWARD (Australia), said that his delegation favoured terse wording of resolutions, but had agreed to the following amendments suggested by the other sponsors to make the text more explicit. The following words should be added at the end of the eighth preambular paragraph: "and noting in this regard the establishment, in November 2000, of the Network of National Human Rights Institutions of the Americas". Operative paragraph 3 should be replaced by the following: "3. Recognizes that national institutions have a potentially crucial role to play in promoting and ensuring the indivisibility and interdependence of human rights and calls upon all States to ensure that all human rights are appropriately reflected in the mandate of their national human rights institutions when established." At the end of operative paragraph 4, the words "to follow suit" should be replaced by the words "to consider taking similar steps". In the last line of the introductory part of operative paragraph 8, the words "the child" should be replaced by the words "particularly vulnerable groups, including children and people with disabilities".

44. Ms. IZE-CHARRIN (Secretary of the Commission) said that Argentina, Armenia, Angola, Colombia, Democratic Republic of the Congo, Cyprus, Ecuador, El Salvador, Ethiopia, Germany, Georgia, Guatemala, India, Republic of Korea, The former Yugoslav Republic of Macedonia, Mauritius, Morocco, Rwanda, Senegal, Slovenia, Sweden, Togo, Turkey, Uganda, Ukraine, United Kingdom of Great Britain and Northern Ireland, United States of America and Venezuela wished to join the sponsors of the draft resolution.

45. The draft resolution was adopted without a vote.

ORGANIZATION OF THE WORK OF THE SESSION (agenda item 3) (continued)

Situation of human rights in Colombia

Draft statement of the Chairperson of the Commission on Human Rights concerning the situation of human rights in Colombia

46. The CHAIRPERSON read out the following draft statement.

> "1. The Commission on Human Rights takes note of the willingness of the Government of Colombia to allow the Office of the High Commissioner for Human Rights in Colombia to carry out its mandate and conduct its activities without any impediments. It also notes the obstacles which the Office has experienced in maintaining a fluid and effective dialogue with the Government on a constant and uniform basis, as well as the commitment of the Government to intensify this dialogue and work together with the Office, granting it all the necessary security guarantees. The Commission urges the Government to further strengthen its efforts actively to cooperate with the Office to realize the full potential of its mandate. It welcomes the analytical report of the High Commissioner for Human Rights on the situation of human rights in Colombia (E/CN.4/2001/15) and takes note of a document containing the observations of the Government of Colombia on that report (E/CN.4/2001/139).

2. The Commission firmly supports the agreement between the Government of Colombia and the High Commissioner for Human Rights to extend the mandate of the permanent Office in Bogotá until April 2002. The Commission continues to consider that the Office, which is mandated to promote and protect human rights and observe violations of human rights in the country, as well as to assist the Colombian authorities in developing policies and programmes, plays a vital role in the work against ongoing violations of human rights and international humanitarian law in Colombia. It reaffirms its belief that a wider presence of the Office is of utmost importance in this work and encourages the opening of field offices in Colombia.

3. Though progress in certain areas is to be acknowledged, the Commission strongly believes that the Government of Colombia has to take further and more effective steps to follow up and fully implement the recommendations of the Office. The Commission urges the Government to undertake decisive steps to ensure the fulfilment of these recommendations. The Commission believes that further cooperation with United Nations human rights mechanisms continues to be a valuable support in the Government's efforts to promote and protect human rights in the country.

4. The Commission expresses its strong support for the peace process in Colombia and notes progress in the negotiations with the Revolutionary Armed Forces of Columbia (FARC) and the National Liberation Army (ELN). The Commission further expresses its support for the efforts made to turn the peace process into a State policy. The Commission welcomes the parties' decision to involve the international community more directly in the negotiations and greatly encourages further efforts to ensure the active involvement of the civil society in the peace process. The Commission reiterates its deep concern about the lack of a permanent ceasefire and about the grave and persistent abuses of international humanitarian law, mainly by 'paramilitaries' (also known as 'self-defence groups' or 'autodefensas') and guerrillas, which obstruct progress in the peace process. It calls upon all parties to respect international humanitarian law and, in particular, to protect the civilian population.

5. Considering that respect for human rights and the observance of international humanitarian law plays a key role in the process towards a sustainable peace, the Commission calls on the parties to the conflict to reach, as a priority, a comprehensive human rights and humanitarian agreement, faithfully reflecting all provisions of applicable law, including an independent mechanism of verification, as well as to address the question of how victims of the violations of human rights and international humanitarian law can be acknowledged. The Commission notes that the Government of Colombia, through its Office of the High Commissioner for Peace, has stated that it is willing to discuss specific terms of the proposal for such an agreement with the Office of the High Commissioner for Human Rights in Colombia in order to make an independent evaluation of its relevance, timing and effectiveness, in the context of the dialogue with the insurgent groups.

6. The Commission strongly deplores the persistence of serious and frequent violations of human rights and of international humanitarian law. In particular, it condemns in unequivocal terms the serious, massive and systematic abuses and grave

breaches of international humanitarian law perpetrated by paramilitary and guerrilla groups. The Commission is deeply concerned that these violations and abuses have led to a further deterioration of the human rights and humanitarian situation in Colombia. It further condemns all attacks on objects serving a medical purpose, including threats directed at medical personnel, control of health facilities and attacks on ambulance vehicles.

7. The Commission also strongly deplores the persistence of impunity in Colombia, especially in regard to human rights violations, and the alleged links between military and paramilitaries, which are a fundamental obstacle to the observance and implementation of human rights and international humanitarian law in the country. In this context, it notes the Standing Inter-sectoral Commission for the Coordination and Follow-up of National Human Rights and International Humanitarian Law Policy as well as the Presidential Programme for the Promotion, Respect and Guarantee of Human Rights and of the Application of International Humanitarian Law. The Commission calls upon the Government of Colombia to effectively follow up these initiatives in order to define and implement actions aimed at resolving the serious situation of impunity.

8. The Commission notes Law 589 criminalizing forced disappearances, genocide, forced displacement and torture, as well as the Presidential Order of August 2000 instructing all the military tribunals to comply fully with the Constitutional Court ruling regarding the exclusion of their jurisdiction over conduct related to genocide, torture and enforced disappearances and other related violations of human rights. In this context, the Commission underlines that it is important that cases of violation of human rights or infringements of international humanitarian law are tried by civilian courts and that the provisions of the new Military Code and the new Ordinary Criminal Code are interpreted and applied in conformity with the relevant international standards and with the clear criteria established by the decisions of the Colombian Constitutional Court. The Commission urges the Government of Colombia to take further effective measures to address the problem of impunity and takes note of the expressed will of the Government of Colombia to ratify the Rome Statute of the International Criminal Court.

9. The Commission takes note of improvements in the human rights performance of the armed forces but remains concerned at continued reports of human rights violations attributed to the armed and security forces. While the Commission notes the legal mechanisms which have led to the dismissal of military personnel in a discretionary manner, it urges the Government of Colombia to further ensure that the members of State forces against whom credible allegations exist are suspended, whilst speedy investigations are undertaken in order to bring those responsible to civilian justice.

10. The Commission strongly condemns all acts of terrorism and all breaches of international humanitarian law committed by the guerrilla groups, particularly killings and attacks on the civilian population. In this context the Commission also strongly condemns continued systematic kidnapping, especially abhorrent when directed at children. It remains deeply concerned at the continued use of child soldiers and anti-personnel landmines, as well as other non-conventional explosive devices, by the guerrillas. The Commission condemns the continued mass abductions and destruction of

power lines by the ELN. It also condemns the killing of civilians, even in the demilitarized zone created as the legitimate scene for the negotiations, as well as the continuing kidnappings by the FARC. It calls upon the guerrilla groups to respect international humanitarian law and to engage effectively in serious and concrete peace talks with the Government of Colombia and to agree upon a comprehensive human rights and humanitarian agreement in order to pave the way to a complete ceasefire and as a first step towards a peace agreement.

11. The Commission remains deeply concerned about the continuing grave abuses of human rights and breaches of international humanitarian law committed by the paramilitary groups, including murder and massacres. The Commission is also deeply concerned at reports involving members of State forces who collaborate with paramilitary groups and consent to or acquiesce in criminal acts such as killings of civilians. The Commission urges the Government of Colombia to take more effective steps to combat and suppress paramilitary groups and to step up actions against the economic networks which support them, as well as to intensify political, administrative, judicial and other appropriate measures with respect to official bodies, members of the armed forces and individuals suspected of supporting paramilitary groups. In this context, the Commission in particular urges the Government of Colombia to take prompt and effective measures after receiving 'early warnings' in order to save lives and prevent crimes from being committed. The Commission is encouraged by the creation of a National Coordination Centre set up to coordinate all State activities to combat the paramilitaries in all their forms and calls upon the Government of Colombia to make sure that these and other related measures are effectively implemented and to ensure that those responsible are brought to civilian justice.

12. The Commission takes note of the announcement of the Six-Point Plan put forward by the Government of Colombia in January 2001 to tackle paramilitary groups. Concrete action is now required. The Commission will closely monitor the Plan's implementation by the Colombian authorities.

13. The Commission welcomes the signature by the Government of Colombia of the two Optional Protocols to the Convention on the Rights of the Child on the involvement of children in armed conflict and the sale of children, child prostitution and child pornography, as well as the ratification of the Convention on the Prohibition of the Use, Stockpiling, Production and Transfer of Anti-Personnel Mines and on Their Destruction (2000), and encourages the Government to ratify the two Optional Protocols and implement them as soon as possible. The Commission also encourages the Government of Colombia to recognize the competence of the committees established under articles 21 and 22 of the Convention against Torture and Other Cruel, Inhuman and Degrading Treatment or Punishment and under article 14 of the International Convention on the Elimination of All Forms of Racial Discrimination, as well as to ratify the Optional Protocol to the Convention on the Elimination of All Forms of Discrimination against Women.

14. The Commission welcomes the invitation by the Government of Colombia to the Special Rapporteur on extrajudicial, summary and arbitrary executions and the Working

Group on Enforced or Involuntary Disappearances and that it will invite the Special Rapporteur on freedom of opinion and expression and the Special Representative of the Secretary-General on human rights defenders to visit the country this year. The Commission looks forward to their reports.

15. The Commission strongly condemns the persistent and dramatically increasing attacks against human rights defenders, as well as trade unionists, persons working within the justice system, journalists, academics, students, professors and others exercising their freedom of expression, thus closing legitimate channels for democratic participation. The Commission acknowledges that the Government of Colombia has taken measures to address the problem, such as the Special Protection Programme for Witnesses and Threatened Persons under the Ministry of the Interior. However, the Commission remains seriously concerned about the slow pace of judicial investigations into crimes against human rights defenders and about the limitations of administrative, security and financial resources to protect those social and human rights defenders who find themselves at risk. In this context, the Commission welcomes the Government's determination to continue its close cooperation with the Special Representative of the Director-General of the International Labour Organization for cooperation with Colombia.

16. The Commission urges the Government of Colombia promptly to take all the necessary measures to implement effectively programme and policies, with the support of the Office of the High Commissioner for Human Rights, including to make further progress in the implementation of a National Action Plan, to tackle impunity and, in particular, to address concerns related to the safety of groups in need of special protection, such as human rights defenders and trade unionists.

17. The Commission strongly condemns all threats, attacks and killings of candidates in local elections and others involved in peaceful political activities by guerrillas and paramilitary groups. It calls upon all parties to respect those exercising their political rights. The Commission notes with appreciation the significant institutional effort of the Colombian State and Government in successfully holding local elections in October 2000, which proves once again the unfailing commitment to adhere to democratic rule.

18. The Commission notes with concern the concluding observations (CRC/C/15/Add.137) of the Committee on the Rights of the Child stating, inter alia, that the general climate of violence in Colombia is not only negatively affecting the implementation of the Convention but has also led to systematic violations of the rights of the child. It welcomes the prohibition of recruitment of children under the age of 18 into the armed forces. The Commission firmly condemns the forcible recruitment of a large number of children into paramilitary and guerrilla groups. The Commission encourages the Government of Colombia to follow up on the recommendations made by the Committee.

19. The Commission deplores attacks against indigenous and Afro-Colombian communities and exhorts all actors to respect the special cultural status of minorities. It

calls upon the Government of Colombia to take urgent effective steps for the improvement of the legal and physical protection of the affected groups and to develop and implement programmes that effectively address the specific needs of these exposed communities in accordance with the recommendations of the Committee on the Elimination of Racial Discrimination.

20. The Commission takes note of the acknowledgement by the Government of Colombia of its responsibility to address the situation of the internally displaced and of the progress made in creating the relevant legal and institutional frameworks. The Commission, however, remains deeply concerned about the deterioration of the situation of internally displaced persons in Colombia and the increase in their numbers. The Commission calls upon the Government of Colombia to urgently and effectively implement additional strategies, based on the recommendations made by the Representative of the Secretary-General on internally displaced persons after the follow-up mission to Colombia in 1999, designed to protect internally displaced persons, in particular children, and to ensure their safe return. In this regard it encourages further cooperation and coordination between the Colombian authorities, international bodies, especially UNHCR and ICRC, and NGOs. It encourages the Government of Colombia to continue to seek effective means to eradicate the causes of displacement, assuring further concrete results, including bringing those responsible for causing displacement to justice. The Commission calls upon the Government of Colombia to implement preventive measures, including an effective system of early warning.

21. The Commission is also concerned over the poor prison conditions and at reports of abuses of the detainees' human rights and requests the Office of the High Commissioner for Human Rights in Colombia to follow this situation with a view to providing advice and cooperation to the Colombian authorities. It welcomes the visits carried out by international humanitarian organizations and emphasizes the importance of allowing them access to all detainees. It encourages the Government of Colombia to proceed with the reform of the Codigo penitenciario y carcelario. It calls upon the Government to adopt measures to fulfil international standards regarding prisoners and to protect the human rights of all detainees.

22. The Commission requests the High Commissioner for Human Rights to submit to it at its next session a detailed report containing an analysis by her Office of the situation of human rights in Colombia in accordance with the agreement between the Government of Colombia and the Office of the United Nations High Commissioner for Human Rights on the operation of the permanent Office in Colombia."

47. The draft statement read out by the Chairperson was adopted.

ADVISORY SERVICES AND TECHNICAL COOPERATION IN THE FIELD OF HUMAN RIGHTS (agenda item 19) (continued) (E/CN.4/2001/L.81 and L.101)

Draft resolution on assistance to Somalia in the field of human rights (E/CN.4/2001/L.81)

48. Mr. MORENO (Italy), introducing the draft resolution on behalf of the sponsors, said that the words "and to abide by the arms embargo" should be moved from the end of operative paragraph 7 (c) to the end of paragraph 7 (d).

49. Notwithstanding some positive developments in the wake of the Arta Peace Conference in May 2000, the process of pacification in Somalia remained fragile. The Commission on Human Rights should therefore give priority to ensuring that human rights issues increasingly became a key element in the reconciliation process. It was also essential to appoint a new independent expert.

50. The draft resolution expressed deep concern at reports of serious abuses of human rights and condemned the widespread violations of humanitarian law, hostage-taking and abductions taking place. Information from Somalia had indicated that the reconciliation process was being weakened by the opposition of armed groups and warlords and hence the draft resolution was designed to express the international community's continued solidarity with the people of the country.

51. Ms. IZE-CHARRIN (Secretary of the Commission) said that Mauritius wished to join the sponsors of the draft resolution, which had financial implications.

52. Ms. WONG (Office of the United Nations High Commissioner for Human Rights) speaking under rule 28 of the rules of procedure of the functional commissions of the Economic and Social Council, said that the cost of activities related to implementing the extension of the mandate of the independent expert would amount to $38,100 every year, but, since provision for those activities had been included in the programme budget for the current and forthcoming biennium, no additional appropriations would be required. The estimated costs of up to $3,000 for the translation of the resolution and its dissemination in Somalia would be financed under extra-budgetary resources.

53. The draft resolution was adopted without a vote.

Draft resolution on the situation of human rights in Cambodia (E/CN.4/2001/L.101)

54. Mr. HARAGUCHI (Japan), speaking on behalf of the sponsors, which had been joined by Austria, France, Greece and the United States of America, said that Cambodia offered a good example of how advisory services and technical cooperation in the field of human rights could help a country to achieve steady progress in the promotion and protection of those rights. The draft resolution reflected the numerous positive developments which had taken place and welcomed the adoption by Parliament of a draft law on the establishment of a court to prosecute Khmer Rouge leaders, who should be tried in accordance with international standards of justice, fairness and due process of law. Yet some areas of concern still remained and the lack of human

and financial resources hampered endeavours to enhance human rights and political stability. Assistance from the international community could have a considerable impact on Cambodia's efforts in that regard.

55. Ms. WONG (Office of the United Nations High Commissioner for Human Rights), speaking under rule 28 of the rules of procedure of the functional commissions of the Economic and Social Council, said that the cost of activities to implement the decision would amount to $36,950 per annum. Since provision had already been made for activities of that kind in the programme budget of the current and forthcoming biennium, no additional appropriations would be required.

56. The draft resolution was adopted without a vote.

Situation of human rights in Haiti

Draft statement of the Chairperson of the Commission on Human Rights concerning technical cooperation and the situation of human rights in Haiti

57. The CHAIRPERSON read out the following statement, having noted that it had no financial implications.

> "The Commission welcomes the visit of the Minister for Foreign Affairs of Haiti to this body and takes note of his recognition that, while there has been some progress on human rights in Haiti, problems persist with regard to the administration of justice, impunity, prolonged detention and prison conditions.
>
> The Commission also takes note of the request by the Government of Haiti for assistance in addressing these issues and in improving human rights, and pledges to give this request serious consideration, while recognizing that primary responsibility remains with the Haitians.
>
> The Commission encourages the Government of Haiti and the Office of the United Nations High Commissioner for Human Rights (OHCHR) to consider seriously undertaking a programme of technical cooperation and assistance, particularly for capacity-building in, inter alia, State institutions, the Office of the Ombudsman (OPC), the Judges School, the administration of justice and civil society. Such a programme might include an OHCHR office in Haiti at some point in the future.
>
> The Commission calls upon the Government of Haiti to consider ratifying the International Covenant on Economic, Social and Cultural Rights, the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment and the Optional Protocols to the International Covenant on Civil and Political Rights.
>
> The Commission expresses deep concern that a political impasse in Haiti remains unresolved and stems originally from a flawed method for counting first-round results and other electoral controversies that compromised the May 2000 legislative elections. It deeply regrets that mediation efforts have not succeeded in achieving a fruitful dialogue.

The Commission notes that the November 2000 presidential and partial legislative elections adhered to constitutional process and relevant electoral laws, but regrets that those elections did not benefit from the full participation of Haiti's diverse political actors and civil society. It welcomes commitments made by the Government of Haiti to rectify the problems associated with the May 2000 legislative elections and other electoral and political issues, and urges negotiation towards a national accord.

The Commission welcomes and encourages the mediation efforts of the Organization of American States, the Caribbean Community, and members of Haitian civil society to bring about dialogue and reconciliation among Haiti's political forces. It calls on the Government of Haiti and all political parties to participate actively and constructively in those efforts with a view to an agreed outcome in the national interest.

The Commission welcomes the judicial effort to hold the Raboteau and Carrefour-Feuilles trials in a fair and transparent manner, bringing to justice the perpetrators of extrajudicial killings and demonstrating the potential for improving respect for the rule of law and combating impunity.

The Commission calls upon the Government of Haiti to investigate thoroughly politically motivated crimes, including the assassination of journalist Jean Dominique; to prosecute accused perpetrators of such crimes in accordance with Haitian law; to institute legal proceedings against perpetrators of human rights violations identified by the National Commission for Truth and Justice; and to ensure the neutrality of the police.

The Commission encourages the Government of Haiti to take vigorous action to eliminate human rights violations, including illegal arrest and detention; to improve prison conditions; to ensure due process; and, in this regard, to strengthen the Office of the Ombudsman.

The Commission condemns acts of violence, in particular politically motivated violence; encourages all the political parties and all concerned to refrain from using inflammatory remarks; calls on members of popular organizations to cease intimidation and harassment of political activists; and urges government authorities to protect all Haitian citizens and their constitutional rights to assemble peacefully and express their political opinions.

The Commission, noting that the United Nations International Civilian Support Mission in Haiti ended its mandate in February, observes an ongoing need in Haiti to promote and protect all human rights and to reinforce the institutional effectiveness of the police and judiciary, and invites the international community to assist Haiti in these efforts.

The Commission also expresses concern over Haiti's 'restaveks', children who are placed in domestic service, sometimes against their will and in deplorable conditions, and encourages the efforts of the Government of Haiti supported by the United Nations International Children's Fund, the International Labour Organization, and other entities working to improve the situation. The Commission encourages the Government of Haiti

to promote the rights of children, in particular their right to education. The Commission also expresses concern about the difficult socio-economic situation in Haiti, which continues to exact a heavy toll on the lives of the Haitian people.

The Commission takes note of the report of the former independent expert (E/CN.4/2001/106 of 30 January 2001) and requests a new independent expert to report to the General Assembly at its fifty-sixth session and to the Commission on Human Rights at its fifty-eighth session on developments in the situation of human rights and technical cooperation for human rights in Haiti. The Commission decides to continue its consideration of the situation of human rights in Haiti at its fifty-eighth session under the agenda item entitled 'Advisory services and technical cooperation in the field of human rights'."

58. The draft statement read out by the Chairperson was adopted.

The meeting rose at 9.20 p.m.